

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

GRETCHEN FENTON,)	
Plaintiff)	
)	
v.)	C.A. NO. 10-30007-MAP
)	
UNIVERSITY OF MASSACHUSETTS)	
Defendant)	

MEMORANDUM AND ORDER RE:
REPORT AND RECOMMENDATION WITH REGARD TO
DEFENDANT'S MOTION TO DISMISS
(Dkt. Nos. 9 & 12)

October 13, 2010

PONSOR, D.J.

In this action, Plaintiff proceeding pro se, seeks damages under the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., as well as Mass. Gen. Laws ch. 151B ("Chapter 151B"). She also contends that Defendant breached her contract.

Defendant has filed a Motion to Dismiss, which was referred to Magistrate Judge Kenneth P. Neiman for report and recommendation.

On September 10, 2010, Judge Neiman issued his Report and Recommendation, to the effect that Defendant's motion should be allowed based upon Defendant's sovereign immunity. Plaintiff has duly objected, and the Report and Recommendation is now before the court.

Having reviewed the substance of the Report and

Recommendation and finding it meritorious, the court, upon de novo review, hereby ADOPTS the Report and Recommendation (Dkt. No. 12). Judge Neiman's analysis of sovereign immunity is perfectly correct. Plaintiff's objection that she is only seeking reinstatement fails, since she has not named any individual defendant against whom the court's injunctive order of reinstatement might issue. Based upon the authorities set forth in detail in the Report and Recommendation, sovereign immunity bars exercise of jurisdiction in this federal court. As Judge Neiman noted, Plaintiff may well have the ability to pursue her claims in state court.

For the foregoing reasons, the court hereby ALLOWS Defendant's Motion to Dismiss (Dkt. No. 9). The clerk is ordered to enter judgment for Defendant. This case may now be closed.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
U. S. District Judge